

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
Bernard National Loan Investors, Ltd.,
:

Plaintiff,
:

-against-
:

Traditions Management, LLC, AEY, LLC, and
Michael Aiken,
:

Defendants.
:
:
----- X

08 Civ. 3573(DLC)

**JOINT RULE 26(f) REPORT
AND PROPOSED
DISCOVERY PLAN**

ECF CASE

JOINT RULE 26(f) REPORT AND PROPOSED DISCOVERY PLAN

Counsel for all parties in this action conferred by teleconference to discuss the matters
enumerated in Rule 26(f) and submit this joint report pursuant to the Rule.

(1) Settlement

The parties have discussed the possibility of settlement and do not believe that further
settlement discussions or court-ordered mediation would be productive at this time,
although they are amenable to revisiting the issue as the case progresses.

(2) Disclosure under Fed. R. Civ. P. 26(a)(1):

The parties hereby stipulate and agree that mandatory initial disclosures under Fed. R.
Civ. P. 26(a)(1) shall be served 3 weeks after the commencement of discovery.

(3) Discovery Plan:

The parties have a dispute concerning the appropriate date on which discovery should
commence. Plaintiff proposes that discovery commence on August 11, 2008.

Defendants believe that discovery should be stayed during the pendency of their motion
to dismiss, because the resolution of the motion may substantially narrow the issues in
the case and the scope of relevant discovery.

Notwithstanding the parties' dispute concerning the commencement of discovery, the parties have agreed that discovery and other should proceed on the following timetable once commenced:

- (a) Fact discovery is to be completed within 9 months of the commencement of discovery and on the following timetable:
 - i. Initial document requests are to be served within 15 business days from the commencement of discovery. Responses to such initial requests shall be due within 45 days of the service of the requests.
 - ii. Other discovery requests shall be served and responded to in accordance with the Federal Rules.
 - iii. Depositions of fact witnesses shall commence after document production is substantially complete and no earlier than 90 days following the commencement of discovery.
- (b) Expert discovery shall proceed on the following schedule:
 - i. Expert designations shall be served during the last week of fact discovery and rebuttal expert designations shall be served within 10 days thereafter.
 - ii. Expert reports shall be served within 30 days of the conclusion of fact discovery.
 - iii. Rebuttal expert reports shall be served within 14 days after receipt of an opposing party's expert report.
 - iv. Expert depositions shall commence no earlier than 60 days after the conclusion of fact discovery and shall be concluded within 75 days after the conclusion of fact discovery..
- (c) The deadline for moving to amend pleadings and joining additional parties shall be 160 days after the commencement of discovery.
- (d) Motions for summary judgment shall be filed on or before 30 days following the conclusion of expert discovery.

(4) *Changes in limitations on discovery:*

No party proposes any changes in the limitations on discovery set forth in the Federal Rules of Civil Procedure with the exception of any such changes noted herein.

(5) ***Other Orders That Should be Entered by the Court Under Rule 26(c) or Rule 16(b):***

The parties are amenable to the entry of an appropriate protective order regarding confidentiality, to be negotiated between the parties and presented to the Court for approval.

Dated: New York, New York
July 31, 2008

REED SMITH LLP

COVINGTON & BURLING LLP

By: /s/ Lance Gotthoffer

By: /s/ C. William Phillips

Lance Gotthoffer

C. William Phillips

Park Avenue Tower
599 Lexington Avenue
New York, New York 10022
(212) 549-0289

The New York Times Building
620 Eighth Avenue
New York, New York 10018
(212) 841-1000

*Attorneys for Plaintiff Bernard National Loan
Investors, Ltd.*

*Attorneys for Defendants Traditions
Management, LLC, AEY, LLC, and Michael
Aiken*